

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

TYRONE BURNS,

Plaintiff,

v.

JAMES FENOGLIO, et al.,

Defendants.

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Case No. 3:11-cv-1104-DGW

ORDER

WILKERSON, Magistrate Judge:

Now pending before the Court is the motion regarding filing fee issues filed by Plaintiff, Tyrone Burns, on August 31, 2017 (Doc. 160).

On April 15, 2016, Plaintiff filed a notice of appeal (Doc. 146) along with a motion to proceed *in forma pauperis* (Doc. 147). Typically, a notice of appeal divests the district court of jurisdiction – in particular “of its control over those aspects of the case involved in the appeal.” *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982). Federal Rule of Appellate Procedure 24, however, directs the district court to consider motions to appeal *in forma pauperis*, or the good faith nature of an appeal, in order to determine whether a litigant can proceed on appeal without prepayment of the appellate filing fee. On May 4, 2016, this Court found that it could not certify that the appeal was not taken in good faith and directed Plaintiff, who had been granted leave to proceed *in forma pauperis* in this Court, to remit the amount to \$107.59 to the Clerk of this Court pursuant to 28 U.S.C. § 1915(b)(1) (Doc. 8). Unfortunately, something went awry and the full amount of the initial partial filing neither reached this Court nor the Court of Appeals. Instead, only \$2.00 was received.

The jail where Plaintiff is housed, however submitted documentation that part of

Plaintiff's initial partial filing fee, \$107.00 was sent to the United States District Court for the Northern District of Illinois and cashed by the Clerk, Thomas G. Bruton, on July 7, 2016. The remaining \$0.59 was then sent to the Clerk of this District on January 3, 2017.

The Court finds that Plaintiff has substantially complied with this Court's May 4, 2016 Order directing the initial partial filing fee and that he has submitted the \$107.59 as directed towards the appellate filing fee in this matter.

Plaintiff's motion is accordingly deemed **MOOT**.

DATED: April 11, 2017



DONALD G. WILKERSON
United States Magistrate Judge